



**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

DATE PREPARED: 5/21/80

RE: PATRICE GRONDIN, 80-TLC-4

PATRICE GRONDIN, 80-TLC-4, REQUEST FOR EXPEDITED ADMINISTRATIVE/JUDICIAL REVIEW UNDER 20 CFR 655.212 FROM DENIAL BY REGIONAL ADMINISTRATOR (R.A.), ETA, BOSTON, MASSACHUSETTS; DATED APRIL 30, 1980, OF TEMPORARY LABOR CERTIFICATIONS FOR TEN LOGGERS, ONE UTILITY PERSON AND ONE LOG TRUCK DRIVER. THE REQUEST FOR REVIEW WAS RECEIVED ON MAY 6, 1980, AND THE APPEAL FILE WAS RECEIVED ON MAY 12, 1980, REACHING THE UNDERSIGNED ON MAY 15, 1980.

THE EMPLOYER FILED TEMPORARY LABOR CERTIFICATION APPLICATIONS FOR FOURTEEN WORKERS ON FEBRUARY 12, 1980. CERTIFICATION WAS DENIED FOR TWELVE OF THE WORKERS. SPECIFICALLY, CERTIFICATION FOR ONE LOG TRUCK DRIVER WAS DENIED BECAUSE A U.S. WORKER WAS AVAILABLE, WHOM THE EMPLOYER INDICATED HE WILL HIRE WHEN NEEDED. CERTIFICATION WAS DENIED; FOR ONE UTILITY PERSON (MAINTENANCE REPAIRER) AND TEN LOGGERS BASED ON THE RA'S FINDING THAT THE EMPLOYER HAD ADVERSELY AFFECTED U.S. WORKERS AS SET FORTH AT 20 CFR 655.206(a)(2). THIS FINDING WAS MADE BECAUSE THE NEWSPAPER ADVERTISEMENTS SUBMITTED IN ACCORDANCE WITH 20 CFR 655.203(d)(2) OFFERED LOGGERS A SKIDDER RATE FOR HARDWOOD AND SOFTWOOD OF \$13.20 MBF. WHEREAS THE RATE OFFERED TO THE ALIENS WAS \$14.00 MBF.

REGARDING THE DENIAL OF CERTIFICATION FOR A UTILITY PERSON/MAINTENANCE REPAIRER, THE NEWSPAPER ADVERTISEMENTS REQUIRED ONE YEAR'S EXPERIENCE WHILE THE JOB OFFER TO THE ALIEN, EMPLOYMENT FORM MAT-50B, REQUIRED ONLY ONE MONTH'S EXPERIENCE.

THE EMPLOYER IN HIS REQUEST FOR ADMINISTRATIVE-JUDICIAL REVIEW ASSERTS THAT THE NEWSPAPER ADVERTISEMENTS CONTAINED TYPING OR PRINTING MISTAKES.

ADMINISTRATIVE-JUDICIAL REVIEW IS CONFINED TO REVIEW THE RECORD FOR LEGAL SUFFICIENCY. 20 CFR 655.212. THE RECORD REFLECTS THE

DIFFERENCES IN WAGE RATES OFFERED U.S. WORKERS AND THE DIFFERENCE IN EXPERIENCE REQUIRED OF U.S. WORKERS FROM THOSE OFFERED THE ALIENS THAT THE RA SECURITY CLASSIFICATION CITED. THERE IS NO EVIDENCE IN THE RECORD TO SUPPORT THE EMPLOYER'S CLAIM OF TYPING OR PRINTING ERRORS IN THE NEWSPAPER ADVERTISEMENTS. THE RECORD SUPPORTS THE RA'S FINDING THAT U.S. WORKERS WERE OFFERED WAGES, TERMS, AND CONDITIONS OF EMPLOYMENT LESS FAVORABLE THAN THOSE OFFERED FOREIGN WORKERS.

THIS IS THE FINAL DECISION OF THE DEPARTMENT OF LABOR ON THIS MATTER. FURTHER REVIEW MAY BE OBTAINED BY FILING A PETITION WITH THE DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE IN YOUR GEOGRAPHICAL AREA PURSUANT TO 8 C.F.R. 214.2(h)(3)(i).

THIS DECISION IS BEING TRANSMITTED TO PATRICE GRONDIN THE REGIONAL ADMINISTRATOR, THE ADMINISTRATOR OF THE U.S. EMPLOYMENT SERVICE, THE ASSOCIATE SOLICITOR FOR EMPLOYMENT AND TRAINING, AND THE DIRECTOR OF IMMIGRATION AND NATURALIZATION SERVICE.

DAVID A. CLARKE, JR.
Administrative Law Judge
U.S. Department of Labor